

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

RUDO THOMPSON,

Petitioner,

v.

CIVIL ACTION NO. 3:09-CV-36
(BAILEY)

WARDEN JAMES CROSS,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. By Standing Order, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R & R [Doc. 15] on September 4, 2009. In that filing, the magistrate judge recommended that this Court deny and dismiss the § 2241 petition [Doc. 1].

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. **Thomas v. Arn**, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v.**


Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due within ten (10) days of filing of this same, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects service was accepted on September 9, 2009. No objections to the R & R have been filed. Accordingly, this Court will review the report and recommendation for clear error.

Accordingly, upon careful review of the report and recommendation, it is the opinion of this Court that the **Magistrate Judge's Report and Recommendation [Doc. 15]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, the respondent's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment **[Doc. 11]** is **GRANTED**, and the § 2241 petition **[Doc. 1]** is hereby **DENIED**. The petitioner is further informed that he may pursue a § 2254 petition in the appropriate federal court in Colorado if he is still dissatisfied with the state's calculation of the expiration of his parole.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

DATED: September 29, 2009.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE